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10/062,366	01/31/2002	Michael Wayne Brown	AUS920010651US1	2914
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IBM CORPORATION (SS) C/O STREETS & STEELE 13831 NORTHWEST FREEWAY, SUITE 355 HOUSTON, TX 77040			EXAMINER MALHOTRA, SANJEEV	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/062,366
Filing Date: January 31, 2002
Appellant(s): BROWN ET AL.

Jeffrey L. Streets
c/o Streets and Steele
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 18th, 2007 appealing from the office action mailed on May 3rd, 2007.

Acknowledgments

The examiner for this application has changed with effect from November 15th, 2007. Please indicate Examiner Sanjeev Malhotra of Art Unit 3694 as the examiner of record in all future correspondence.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the appeal brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. The appeal brief was filed on July 18, 2007 for application #10/062,366, and no decision has been rendered.

(3) Status of the Claims

The statement of the status of claims contained in the appeal brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the appeal brief is correct.

(5) Summary of the Claimed Subject Matter

The summary of claimed subject matter contained in the appeal brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the appeal brief is correct.

(8) Evidence Relied Upon

5,731,575	ZINGHER et al.	3-1998
Page 1310	Merriam -Webster's	1997
(copy attached herewith)	Collegiate Dictionary	Tenth Edition

(9) Grounds of Rejection

The following grounds of rejection are applicable to the appealed claims. The rejection can also be found in the final office action mailed on May 3rd, 2007.

Claim Rejections - 35 USC § 102

The Examiner has read and reviewed all of the information provided by the Applicant. The examiner rejects as final claims 1-47 under 35 USC 102.

The Applicant attention is re-drawn to the following:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Zingher (US Patent 5,731,575).

Re claim 1, 21 & 40: Zingher discloses:

A method, program product and system detecting unauthorized use of an account (see Zingher, abstract), comprising:

Receiving a first request from a vendor to authorize (see Zingher, Figure 7, Item 50, it is inherent that the vendor in this case the ATM requested a PIN before "access number entered")

Sending a second request for authorization to an account holder (see Zingher, Figure 7, Item 50)

Receiving a first electronic response from account holder providing a PIN (normal or distressed) (see Zingher, Figure 7, Item 55 or 65)

Initiating remedial action if duress PIN is received (see Zingher, Figure 7, Item 70)

Re claim 2, 22 & 41: Zingher discloses:

Request approval of account transaction (see Zingher, Figure 7, Item 50)

Receiving a second response indicating approval from account holder (see Zingher, Figure 7, Item 55)

Re claim 3, 23 & 42: Zingher discloses:

First request contains information selected from:

Account number, (see Zingher, Figure 1, item 20 – it is inherent that an ATM accepts a card to read the account number)

(The below item may also be described in the prior art however, only one reference is sufficient to reject the claim.)

An amount to be charged against the account,

An amount to be debited from the account,

A vendor code

Re claim 4, 24 & 43: Zingher discloses:

Retrieving information from validation database, selected from

An account holder record (see Zingher, Figure 1, item 20 – it is inherent that an ATM accepts a card to read the account number)

(The below item may also be described in the prior art however, only one reference is sufficient to reject the claim.)

A vendor record

Re claim 5 & 25: Zingher discloses:

Account holder record contains information selected from

The account number, (see Zingher, Figure 1, item 20 – it is inherent that an ATM accepts a card to read the account number)

(The below item may also be described in the prior art however, only one reference is sufficient to reject the claim.)

A contact address,

A duress personal information number

A normal personal identification number

Account holder preferences

Billing address

Re claim 6 & 26: Zingher discloses:

Vendor record contains information selected from

Vendor code

(see Zingher, Figure 1– it is inherent that every ATM has it's own unique vendor code based on the owner of the ATM and the location)

(The below item may also be described in the prior art however, only one reference is sufficient to reject the claim.)

Vendor address

Vendor preferences,

Business type

Re claim 7 & 27: Zingher discloses:

Account is selected from

Transaction card account, (see Zingher, Figure 1, item 20)

(The below item may also be described in the prior art however, only one reference is sufficient to reject the claim.)

Personal account

Business account

Re claim 8 & 28: Zingher discloses:

Account transaction is selected from

Debiting an account for good, services or cash (see Zingher, Figure 1, item 20 – it is inherent that an ATM accepts credit and debit cards and dispenses cash)

(The below item may also be described in the prior art however, only one reference is sufficient to reject the claim.)

Charging an account for good service or cash

Re claim 9 & 29: Zingher discloses:

Account transaction occurs at a point selected from:

Point of distribution, (see Zingher, Figure 1,– it is inherent that an ATM location is a point of distribution)

(The below item may also be described in the prior art however, only one reference is sufficient to reject the claim.)

Point of sale,

The internet

A telephone

Re claim 10, 30 & 44: Zingher discloses:

Comparing first response PIN with at least two stored PINs (see Zingher, Figure 5, item 55)

Confirming the first response PIN matches one of at least two stored PINs (see Zingher, Figure 5, item 55)

Determining whether PIN is normal or duress PIN (see Zingher, Figure 5, as indicated from the arrows from item 55)

Re claim 11 & 31: Zingher discloses:

If First response normal

Authorize transaction (see Zingher, Figure 5, item 60)

Re claim 12 & 32: Zingher discloses:

If First response normal

Check if suspected unauthorized used (see Zingher, Figure 5, item 60 – it is inherent that “procedure as usual” would include the “usual checks”)

Receive third response indicated whether refusal is due to suspected unauthorized use (see Zingher, Figure 5, item 60 – it is inherent that “procedure as usual” would include the “usual checks”)

Re claim 13 & 33: Zingher discloses:

Unauthorized use is selected from fraud, stolen, transaction card (see Zingher, Figure 5, item 60 – it is inherent that “procedure as usual” would include the “usual checks”)

Re claim 14 & 34: Zingher discloses:

Send instruction if refusal is due to unauthorized use (see Zingher, Figure 5, item 60 – it is inherent that “procedure as usual” would include the “usual checks”)

Re claim 15 & 35: Zingher discloses:

Third electronic response indicates unauthorized use

Retrieve vendor preferences

Notify authorities as listed in vendor preferences

(see Zingher, Figure 5, item 70 + 60 – it is inherent that “procedure as usual” would include the “usual checks”)

Re claim 16, 36 & 45: Zingher discloses:

If duress PIN triggered, remedial action comprises; retrieving account holder preferences, Notifying authorities, Sending instructions to vendor (see Zingher, Figure 5, item 70)

Re claim 17, 37 & 46: Zingher discloses:

Contact account holder comprises: retrieving address, contact address, requesting account holder to provide PIN (see Zingher, Figure 5, item 70)

Re claim 18, 38 & 46: Zingher discloses:

Inform account holder of pending transaction, information account holder of location and amount (see Zingher, Figure 5, item 70)

Re claim 19 & 39: Zingher discloses:

Contact address is selected from telephone, mobile, pager, internet, email, intranet (see Zingher, Figure 5, item 70)

(10) Response to Arguments

In response to the appellant's arguments filed in the appeal brief on July 18th, 2007, they are not persuasive as they are similar to what was submitted by the appellants on February 13th, 2007. In particular, the Appellants first argument was that the prior art rejection of steps 1 and 2 of the independent Claims 1, 21 and 40 is inconsistent. The examiner had refuted that argument made by the applicant and drew attention to Zingher Figure 7 items 50, 55 and 65. The vendor request authorization --- this is clearly inherent that with the PIN

authorization would need to take place and this is not inconsistent with asking the account holder for authorization --- this is what happens at an ATM machine.

{The current Examiner clarifies that "Vendor" is defined as a noun by Merriam-Webster's Collegiate Dictionary, Tenth Edition (page 1310), either as "one that vends (sells)" or as "vending machine", and "the ATM machine" of Zingher is nothing else, but a "vending machine" that is same as what is being claimed by this applicant.} Perhaps the applicant is trying to say that the vendor receives a first PIN and first account number from a user they believe to be fraudulent and they request the system to contact the card holder and get a second PIN. It is assumed that in step 1 "receiving a first request from a vendor to authorize" is a normal part of the process when the vendor receives an account and PIN. If this step happens after a first account and PIN are received and step 3 is a second PIN, then the examiner had sought clarification, which was not provided by the applicant until date. The claims, as currently recited, read on the prior art (Zingher).

Appellants second argument was that "verifying" does not disclose "receiving" as in Claim 2. The Examiner refuted that argument made by the Applicant and drew attention to Zingher, Figure 7, Items 50 and 55, wherein they first receive "access number entered", then they verify "correct PIN".

Appellants third argument was that in Claim 3, examiner did not point out that the "first request" would include account number, etc. The Examiner refuted

that argument and drew their attention to Zinger, since an ATM card contains this information and it is inherent.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Sanjeev Malhotra/

Conferees:

James Trammell 

Mary Cheung



MARY D. CHEUNG
PRIMARY EXAMINER